

### **REMARKS**

Claims 11-23 are pending in this application. Claims 17-20 and 23 have been withdrawn from consideration pursuant to a finalized restriction requirement imposed by the Examiner. Claims 11 and 14 have been amended to attend to an indefiniteness rejection. No new matter has been added.

### **Priority Under 35 U.S.C. §119(a)-(d)**

The Applicant thanks the Examiner for acknowledging the receipt of priority papers submitted under 35 U.S.C. §119(a)-(d).

### **Election/Restrictions**

The Applicant acknowledges the finality of the restriction requirement imposed by the Examiner to claims 17-20 and 23. The Applicant hereby affirms the election to prosecute claims 11-16 and 21-22. The Applicant hereby cancels non-elected claims 17-20 and 23 and reserves the right to prosecute the non-elected claims by way of a divisional application filed at a later time.

### **Specification Arrangement**

The Examiner has provided a listing of the section headings to be used in the specification of a utility application. Applicant respectfully requests that the Examiner review page 2 of the Preliminary Amendment dated November 24, 2003 for the present application, wherein appropriate section headings were added to the specification.

### **35 U.S.C. §112 Rejections**

Claim 11 stands rejected under 35 U.S.C. §112, second paragraph, for assertedly failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Examiner asserts that the terms "jointless" and "sheetlike" are vague and indefinite. Pursuant to the Examiner's rejection, claims 11 and 14 have been amended to remove the term "sheetlike". However, the Applicant respectfully asserts that one of ordinary skill in the surfacing art would understand

what is meant by the term "jointless". This is true especially in light of reading the present specification. While the covering of the present application clearly has an "end", the covering does not spread ad infinitum. However, the word "jointless" is used as a synonym to "seamless", meaning that the covering is composed of a continuous layer and not of multiple side-by-side layers that would create "joints". Removal of the indefiniteness rejection is therefore respectfully requested.

### **35 U.S.C. §103(a) Rejections**

Claims 11-13, 16 and 21 stand rejected under 35 U.S.C. §103(a) for asserted obviousness over U.S. Patent No. 4,082,888 to Portin (hereinafter "Portin") in view of U.S. Patent No. 4,897,302 to Bull (hereinafter "Bull") in further view of U.S. Patent No. 6,021,646 to Burley et al. (hereinafter "Burley"). Applicant respectfully traverses these rejections for the following reasons.

Claims 11-13, 16 and 21 are directed to a method of producing a porous granular covering in which rubber-elastic granules and a binder are mixed and applied to a base to form a surface and wherein the surface is compacted, smoothed, and then textured on the upper side via the mechanical pressure of an uneven embossing face before the binder has cured. The teachings of the cited references would not lead one skilled in the art to produce a porous covering as claimed.

Portin discloses a method of making a protective surface wherein a mixture of rubber particles and a latex solution is applied to a base surface and smoothed. However, the protective surface is neither porous nor texturized.

The Examiner relies upon Burley to account for the failure of Portin to teach a texturized sport surface. Burley teaches a method of making sport facility flooring systems wherein the top surface may be texturized using a heated roller or texture wheel embossing means. As stated at column 7, lines 29-30 of the Burley specification, the preferred textured finish has a sandpaper or pebbled effect.

Neither Portin nor Burley teaches or suggests a sport surface that is porous. As noted in the Office Action, Bull discloses a base layer in a sport surface that is porous. The porous base layer is covered by a non-porous sealant layer. Hence, the surface provided by the method of Bull is not porous and would not provide the same effect as the method for

making a covering as claimed and according to the present invention. At column 3, lines 26-31 of Bull, it is stated that the method comprises the steps of "forming on a prepared surface a porous layer of polyurethane polymer containing particles of resilient material; [and] applying to an exposed surface of said porous layer a polymeric sealant to form a substantially sealed upper surface thereon". Further, at column 3, lines 54-59, it is stated that the polymeric sealant must be "capable of bonding to the surface of the porous layer and substantially sealing the porous surface against ingress of liquid materials". In contrast, the method according to the present invention provides a porous covering, not just a porous layer. The entirety of the covering produced by the claimed method allows water to flow downwardly throughout the covering. Bull actually teaches away from such a porous covering at least at column 2, lines 21-25 and in column 3 as noted above. As such, one skilled in the art would not combine the teachings of Bull to produce a porous covering with the teachings of Portin and Burley.

The combined teachings of the prior art cited by the Examiner, including the Portin patent, the Burley patent, and Bull patent, fail to suggest the features of the present invention as claimed in claims 11-13, 16 and 21.

Claims 14-15 and 22 stand rejected under 35 U.S.C. §103(a) for asserted obviousness over Portin in view of Bull in view of Burley and further in view of U.S. Patent No. 3,267,187 to Slosberg et al. (hereinafter "Slosberg"). Claims 14-15 and 22 are directed to the use of a heated screed to compact and smooth the surface of the covering and to texturing the surface with either a heated or an unheated roller.

Slosberg teaches using heated and unheated means to texturize a thermoplastic matrix and Portin teaches using a smoothing means on a protective surface. However, Slosberg does not cure the deficiency of the previously discussed obviousness rejections because the matrices of Slosberg are not porous throughout. Thus, the combined teachings of the prior art cited by the Examiner, including the Portin patent, the Burley patent, the Bull patent and the Slosberg patent, fail to suggest the features of the present invention as claimed in claims 14-15, and 22.

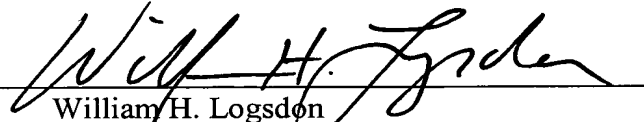
In view of the foregoing, it is believed that rejected claims 11-16 and 21-22 are allowable over the prior art of record.

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Reconsideration of the rejections and objections of the claims is respectfully requested, and allowance of claims 11-16 and 21-22, as amended, is respectfully requested.

Respectfully submitted,  
THE WEBB LAW FIRM

By

A handwritten signature in dark ink, appearing to read "William H. Logsdon", is written over a horizontal line.

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